

1
2 An act relating to the Florida Retirement
3 System; creating part III of chapter 121, F.S.,
4 consisting of ss. 121.70, 121.71, 121.72,
5 121.73, 121.74, 121.75, 121.76, 121.77, 121.78,
6 F.S.; providing legislative purpose and intent
7 to establish a uniform contribution rate system
8 for the Florida Retirement System; providing
9 for establishment of uniform rates; providing
10 allocations to Public Employee Optional
11 Retirement Program accounts; providing for
12 allocations to provide disability coverage for
13 Public Employee Optional Retirement Program
14 participants; providing administrative and
15 educational expenses; providing for transfer of
16 remaining balance to Florida Retirement System
17 Trust Fund to fund the benefit costs under the
18 Florida Retirement System Pension Plan and
19 administrative costs authorized under part I of
20 chapter 121, F.S.; providing for contributions
21 for Social Security and for the retiree health
22 insurance subsidy; granting the State Board of
23 Administration authority to allow the
24 third-party administrator to make deductions
25 from participant accounts; providing for
26 payment and distribution of contributions;
27 amending ss. 121.052, 121.055, 121.071,
28 121.571, F.S., to conform to the uniform
29 contribution rate system; amending s. 121.091,
30 F.S.; reducing contribution rates for DROP
31 payroll; amending s. 121.4501, F.S.; conforming

1 references; providing guidance to assist
2 employers and the State Board of Administration
3 in maintaining compliance with section 404(c)
4 of ERISA; providing a directive to statute
5 editors; amending section 11 of chapter
6 2001-235, Laws of Florida, to revise annual
7 payment amount to cover the cost for the
8 special January 2002 benefit increase provided
9 for certain retirees and DROP participants;
10 repealing section 23 of chapter 2000-169, Laws
11 of Florida, relating to contribution rate
12 increases scheduled to take effect on July 1,
13 2002, which are redundant; providing
14 legislative intent regarding other rate
15 changes; providing a declaration of important
16 state interest; revising provisions governing
17 contributions to the Senior Management Service
18 Optional Annuity Program; providing an
19 effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Part III of chapter 121, Florida Statutes,
24 consisting of sections 121.70, 121.71, 121.72, 121.73, 121.74,
25 121.75, 121.76, 121.77, and 121.78, Florida Statutes, is
26 created to read:

27 Part III
28

29 Florida Retirement System Contribution Rates
30

31 121.70 Legislative purpose and intent.--

1 (1) This part provides for a uniform system for
2 funding benefits provided under the Florida Retirement System
3 defined benefit program established under part I of this
4 chapter (referred to in this part as the defined benefit
5 program) and under the Public Employee Optional Retirement
6 Program established under part II of this chapter (referred to
7 in this part as the optional retirement program). The
8 Legislature recognizes and declares that the Florida
9 Retirement System is a single retirement system, consisting of
10 two retirement plans and other nonintegrated programs.
11 Employers participating in the Florida Retirement System
12 collectively shall be responsible for making contributions to
13 support the benefits afforded under both plans. As provided in
14 this part, employers participating in the Florida Retirement
15 System shall make contributions based upon uniform
16 contribution rates determined as a percentage of the total
17 payroll for each class or subclass of Florida Retirement
18 System membership, irrespective of which retirement plan
19 individual employees may elect. This shall be known as a
20 uniform or blended contribution rate system.

21 (2) In establishing a uniform contribution rate
22 system, it is the intent of the Legislature to:

23 (a) Provide greater stability and certainty in
24 financial planning and budgeting for Florida Retirement System
25 employers by eliminating the fiscal instability that would be
26 caused by dual rates coupled with employee-selected plan
27 participation;

28 (b) Provide greater fiscal equity and uniformity for
29 system employers by effectively distributing the financial
30 burden and benefit of short-term system deficits and
31

1 surpluses, respectively, in proportion to total system
2 payroll; and

3 (c) Allow employees to make their retirement plan
4 selection decisions free of circumstances that may cause
5 employers to favor one plan choice over another.

6 121.71 Uniform rates; process; calculations; levy.--

7 (1) In conducting the system actuarial study required
8 under s. 121.031, the actuary shall follow all requirements
9 specified thereunder to determine, by Florida Retirement
10 System employee membership class, the dollar contribution
11 amounts necessary for the forthcoming fiscal year for the
12 defined benefit program. In addition, the actuary shall
13 determine, by Florida Retirement System membership class,
14 based on an estimate for the forthcoming fiscal year of the
15 gross compensation of employees participating in the optional
16 retirement program, the dollar contribution amounts necessary
17 to make the allocations required under ss. 121.72 and 121.73.
18 For each employee membership class and subclass, the actuarial
19 study shall establish a uniform rate necessary to fund the
20 benefit obligations under both Florida Retirement System
21 retirement plans, by dividing the sum of total dollars
22 required by the estimated gross compensation of members in
23 both plans.

24 (2) Based on the uniform rates set forth in subsection
25 (3), employers shall make monthly contributions to the
26 Division of Retirement, which shall initially deposit the
27 funds into the Florida Retirement System Contributions
28 Clearing Trust Fund. A change in a contribution rate is
29 effective the first day of the month for which a full month's
30 employer contribution may be made on or after the beginning
31 date of the change.

1 (3) Required employer retirement contribution rates
 2 for each membership class and subclass of the Florida
 3 Retirement System for both retirement plans are as follows.
 4 Rates effective July 1, 2002, reflect an offset to normal
 5 employer costs of \$1,237,000,000, resulting from recognition
 6 and usage of current available excess assets of the Florida
 7 Retirement System Trust Fund as determined pursuant to s.
 8 121.031. Contribution rates that become effective July 1,
 9 2003, reflect normal system costs.

	<u>Percentage of</u>	<u>Percentage of</u>
	<u>Gross</u>	<u>Gross</u>
	<u>Compensation,</u>	<u>Compensation,</u>
	<u>Effective</u>	<u>Effective</u>
<u>Membership Class</u>	<u>July 1, 2002</u>	<u>July 1, 2003</u>
<u>Regular Class</u>	<u>4.50%</u>	<u>9.87%</u>
<u>Special Risk Class</u>	<u>14.75%</u>	<u>22.89%</u>
<u>Special Risk Administrative</u>		
<u>Support Class</u>	<u>5.30%</u>	<u>12.58%</u>
<u>Elected Officers' Class -</u>		
<u>Legislators, Governor,</u>		
<u>Lt. Governor,</u>		
<u>Cabinet Officers,</u>		
<u>State Attorneys,</u>		
<u>Public Defenders</u>	<u>8.15%</u>	<u>15.43%</u>
<u>Elected Officers' Class -</u>		
<u>Justices, Judges</u>	<u>14.60%</u>	<u>20.54%</u>
<u>Elected Officers' Class -</u>		
<u>County Elected Officers</u>	<u>10.60%</u>	<u>17.52%</u>
<u>Senior Management Class</u>	<u>4.80%</u>	<u>11.68%</u>
<u>DROP</u>	<u>8.00%</u>	<u>11.56%</u>

1
2 121.72 Allocations to optional retirement program
3 participant accounts; percentage amounts.--

4 (1) The allocations established in subsection (4)
5 shall fund retirement benefits under the optional retirement
6 program and shall be transferred monthly by the Division of
7 Retirement from the Florida Retirement System Contributions
8 Clearing Trust Fund to the third-party administrator for
9 deposit in each participating employee's individual account
10 based on the membership class of the participant.

11 (2) The allocations are stated as a percentage of each
12 optional retirement program participant's gross compensation
13 for the calendar month. A change in a contribution percentage
14 is effective the first day of the month for which a full
15 month's employer contribution may be made on or after the
16 beginning date of the change. Contribution percentages may be
17 modified by general law.

18 (3) Employer and participant contributions to
19 participant accounts shall be accounted for separately.
20 Participant contributions may be made only if expressly
21 authorized by law. Interest and investment earnings on
22 contributions shall accrue on a tax-deferred basis until
23 proceeds are distributed.

24 (4) Effective July 1, 2002, allocations from the
25 Florida Retirement System Contributions Clearing Trust Fund to
26 optional retirement program participant accounts shall be as
27 follows:

<u>Membership Class</u>	<u>Percentage of Gross</u> <u>Compensation</u>
<u>Regular Class</u>	<u>9.00%</u>

1	<u>Special Risk Class</u>	<u>20.00%</u>
2	<u>Special Risk Administrative Support Class</u>	<u>11.35%</u>
3	<u>Elected Officers' Class -</u>	
4	<u>Legislators, Governor,</u>	
5	<u>Lt. Governor, Cabinet Officers,</u>	
6	<u>State Attorneys, Public Defenders</u>	<u>13.40%</u>
7	<u>Elected Officers' Class -</u>	
8	<u>Justices, Judges</u>	<u>18.90%</u>
9	<u>Elected Officers' Class -</u>	
10	<u>County Elected Officers</u>	<u>16.20%</u>
11	<u>Senior Management Service Class</u>	<u>10.95%</u>

12
13 121.73 Allocations for optional retirement program
14 participant disability coverage; percentage amounts.--

15 (1) The allocations established in subsection (3)
16 shall be used to provide disability coverage for participants
17 in the optional retirement program and shall be transferred
18 monthly by the Division of Retirement from the Florida
19 Retirement System Contributions Clearing Trust Fund to the
20 disability account of the Florida Retirement System Trust
21 Fund.

22 (2) The allocations are stated as a percentage of each
23 optional retirement program participant's gross compensation
24 for the calendar month. A change in a contribution percentage
25 is effective the first day of the month for which a full
26 month's employer contribution may be made on or after the
27 beginning date of the change. Contribution percentages may be
28 modified by general law.

29 (3) Effective July 1, 2002, allocations from the FRS
30 Contribution Clearing Fund to provide disability coverage for
31

1 participants in the optional retirement program, and to offset
 2 the costs of administering said coverage, shall be as follows:

3		
4	<u>Membership Class</u>	<u>Percentage of Gross</u>
5		<u>Compensation</u>
6	<u>Regular Class</u>	<u>0.25%</u>
7	<u>Special Risk Class</u>	<u>1.33%</u>
8	<u>Special Risk Administrative Support Class</u>	<u>0.45%</u>
9	<u>Elected Officers' Class -</u>	
10	<u>Legislators, Governor,</u>	
11	<u>Lt. Governor, Cabinet Officers,</u>	
12	<u>State Attorneys, Public Defenders</u>	<u>0.41%</u>
13	<u>Elected Officers' Class -</u>	
14	<u>Justices, Judges</u>	<u>0.73%</u>
15	<u>Elected Officers' Class -</u>	
16	<u>County Elected Officers</u>	<u>0.41%</u>
17	<u>Senior Management Service Class</u>	<u>0.26%</u>

18

19 121.74 Administrative and educational
 20 expenses.--Effective July 1, 2002, in addition to
 21 contributions required under s. 121.71, employers
 22 participating in the Florida Retirement System shall
 23 contribute an amount equal to 0.15 percent of the payroll
 24 reported for each class or subclass of Florida Retirement
 25 System membership, which amount shall be transferred by the
 26 Division of Retirement from the Florida Retirement System
 27 Contribution Clearing Trust Fund to the State Board of
 28 Administration's Administrative Trust Fund to offset the costs
 29 of administering the optional retirement program and the costs
 30 of providing educational services to participants in the
 31 defined benefit program and the optional retirement program.

1 Approval of the Trustees of the State Board of Administration
2 is required prior to the expenditure of these funds. Payments
3 for third-party administrative or educational expenses shall
4 be made only pursuant to the terms of the approved contracts
5 for such services.

6 121.75 Allocation for defined benefit program.--After
7 making the transfers required pursuant to ss. 121.71, 121.72,
8 121.73, and 121.74, the monthly balance of funds in the
9 Florida Retirement System Contributions Clearing Trust Fund
10 shall be transferred to the Florida Retirement System Trust
11 Fund to pay the costs of providing defined benefit program
12 benefits and plan administrative costs under the defined
13 benefit program.

14 121.76 Contributions for social security and for
15 retiree health insurance subsidy.--Contributions required
16 under this part shall be made or deducted, as may be
17 appropriate, for each pay period and are in addition to
18 employer and member contributions required for social security
19 and the Retiree Health Insurance Subsidy Trust Fund as
20 provided under parts I and II of this chapter.

21 121.77 Deductions from participant accounts.--The
22 State Board of Administration may authorize the third-party
23 administrator to deduct reasonable fees and apply appropriate
24 charges to optional retirement program participant accounts.
25 In no event shall administrative and educational expenses
26 exceed the portion of employer contributions earmarked for
27 such expenses under this part, except for reasonable
28 administrative charges assessed against participant accounts
29 of persons for whom no employer contributions are made during
30 the calendar quarter. Investment management fees shall be
31

1 deducted from participant accounts, pursuant to the terms of
2 the contract between the provider and the board.

3 121.78 Payment and distribution of contributions.--

4 (1) Contributions made pursuant to this part shall be
5 paid by the employer to the Division of Retirement by
6 electronic funds transfer no later than the 5th working day of
7 the month immediately following the month during which the
8 payroll period ended. Accompanying payroll data must be
9 transmitted to the Division concurrent with the
10 contributions.

11 (2) The division, the State Board of Administration,
12 and the third-party administrator, as applicable, shall ensure
13 that the contributions are distributed to the appropriate
14 trust funds or participant accounts in a timely manner.

15 (3)(a) Employer contributions and accompanying payroll
16 data received after the 5th working day of the month shall be
17 considered late. The employer shall be assessed by the
18 Division a penalty of 1 percent of the contributions due for
19 each calendar month or part thereof that the contributions or
20 accompanying payroll data are late. Proceeds from the
21 1-percent assessment against contributions made on behalf of
22 participants of the defined benefit program shall be deposited
23 in the Florida Retirement System Trust Fund, and proceeds from
24 the 1-percent assessment against contributions made on behalf
25 of participants of the optional retirement program shall be
26 transferred to the third party administrator for deposit into
27 participant accounts, as provided in paragraph (b).

28 (b) If contributions made by an employer on behalf of
29 participants of the optional retirement program or
30 accompanying payroll data are not received within the calendar
31 month they are due and if that delinquency results in market

1 losses to participants, the employer shall reimburse each
2 participant's account for market losses resulting from the
3 late contributions. The third-party administrator, hired by
4 the board pursuant to s. 121.4501(8), shall calculate the
5 market losses for each affected participant. When
6 contributions made on behalf of participants of the optional
7 retirement program or accompanying payroll data are not
8 received within the calendar month due, the employer shall
9 also pay the cost of the third-party administrator's
10 calculation and reconciliation adjustments resulting from the
11 late contributions. The third-party administrator shall notify
12 the employer of the results of the calculations and the total
13 amount due from the employer for such losses and the costs of
14 calculation and reconciliation. The employer shall remit to
15 the Division the amount due within 10 working days after the
16 date of the penalty notice sent by the Division. The Division
17 shall transfer said amount to the third-party administrator,
18 who shall deposit proceeds from the 1-percent assessment and
19 from individual market losses into participant accounts, as
20 appropriate. The board is authorized to adopt rules to
21 implement the provisions regarding late contributions, late
22 submission of payroll data, the process for reimbursing
23 participant accounts for resultant market losses, and the
24 penalties charged to the employers.

25 (c) Delinquency fees may be waived by the division,
26 with regard to defined benefit program contributions, and by
27 the State Board of Administration, with regard to optional
28 retirement program contributions, only when, in the opinion of
29 the division or the board, as appropriate, exceptional
30 circumstances beyond the employer's control prevented
31 remittance by the prescribed due date notwithstanding the

1 employer's good faith efforts to effect delivery. Such a
 2 waiver of delinquency may be granted an employer only one time
 3 each state fiscal year.

4 Section 2. Subsection (7) of section 121.052, Florida
 5 Statutes, is amended to read:

6 121.052 Membership class of elected officers.--

7 (7) CONTRIBUTIONS.--

8 (a) The following table states the required retirement
 9 contribution rates for members of the Elected Officers' Class
 10 and their employers in terms of a percentage of the member's
 11 gross compensation. A change in a contribution rate is
 12 effective with the first salary paid on or after the beginning
 13 date of the change. Contributions shall be made or deducted as
 14 may be appropriate for each pay period and are in addition to
 15 the contributions required for social security and the Retiree
 16 Health Insurance Subsidy Trust Fund.

17
 18 Dates of Contribution

19 Rate Changes	Members	Employers
20 <u>1. Effective July 1,</u>		
21 <u>2001, through June 30, 2002</u>		
22 Legislators	0%	15.14%
23 Governor, Lt. Governor, Cabinet		
24 Officers	0%	15.14%
25 State Attorneys, Public Defenders	0%	15.14%
26 Justices, Judges	0%	20.61%
27 County Elected Officers	0%	17.61%

28 2. Effective July 1, 2002, the required retirement
 29 contribution rates shall be specified in s. 121.71.

1 (b) The employer paying the salary of a member of the
 2 Elected Officers' Class shall contribute an amount as
 3 specified in this subsection or s. 121.71, as appropriate,
 4 which shall constitute the entire employer retirement
 5 contribution with respect to such member. The employer shall
 6 also withhold one-half of the entire contribution of the
 7 member required for social security coverage.

8 (c) The following table states the required employer
 9 contribution on behalf of each member of the Elected Officers'
 10 Class in terms of a percentage of the member's gross
 11 compensation. Such contribution constitutes the entire health
 12 insurance subsidy contribution with respect to each such ~~the~~
 13 member. A change in the contribution rate is effective with
 14 the first salary paid on or after the beginning date of the
 15 change. The retiree health insurance subsidy contribution rate
 16 is as follows:

18 Dates of Contribution	Contribution
19 Rate Changes	Rate
21 October 1, 1987, through December 31, 1988	0.24%
22 January 1, 1989, through December 31, 1993	0.48%
23 January 1, 1994, through December 31, 1994	0.56%
24 January 1, 1995, through June 30, 1998	0.66%
25 July 1, 1998, through June 30, 2001	0.94%
26 Effective July 1, 2001	1.11%

27
 28 Such contributions shall be deposited by the administrator in
 29 the Retiree Health Insurance Subsidy Trust Fund.

30 Section 3. Subsection (3) of section 121.055, Florida
 31 Statutes, is amended to read:

1 121.055 Senior Management Service Class.--There is
2 hereby established a separate class of membership within the
3 Florida Retirement System to be known as the "Senior
4 Management Service Class," which shall become effective
5 February 1, 1987.

6 (3)(a) The following table states the required
7 retirement contribution rates for members of the Senior
8 Management Service Class and their employers in terms of a
9 percentage of the member's gross compensation. A change in the
10 contribution rate is effective with the first salary paid on
11 or after the beginning date of the change. Contributions
12 shall be made for each pay period and are in addition to the
13 contributions required for social security and the Retiree
14 Health Insurance Subsidy Trust Fund.

15

16 Dates of Contribution

17 Rate Changes	Members	Employers
18 <u>1. Effective July 1,</u> 19 <u>2001, through June 30, 2002</u>	0%	11.73%

20 2. Effective July 1, 2002, the required retirement
21 contribution rate shall be as specified in s. 121.71.

22

23 (b) The employer paying the salary of a member of the
24 Senior Management Service Class shall contribute an amount as
25 specified in this section or s. 121.71, as appropriate, which
26 shall constitute the entire employer retirement contribution
27 with respect to such member. The employer shall also withhold
28 one-half of the entire contribution of the member required for
29 social security coverage.

30 (c) The following table states the required employer
31 contribution on behalf of each member of the Senior Management

1 Service Class in terms of a percentage of the member's gross
 2 compensation. Such contribution constitutes the entire health
 3 insurance subsidy contribution with respect to each such ~~the~~
 4 member. A change in the contribution rate is effective with
 5 the first salary paid on or after the beginning date of the
 6 change. The retiree health insurance subsidy contribution
 7 rate is as follows:

9 Dates of Contribution	Contribution
10 Rate Changes	Rate
11 October 1, 1987, through December 31, 1988	0.24%
12 January 1, 1989, through December 31, 1993	0.48%
13 January 1, 1994, through December 31, 1994	0.56%
14 January 1, 1995, through June 30, 1998	0.66%
15 July 1, 1998, through June 30, 2001	0.94%
16 Effective July 1, 2001	1.11%

17

18 Such contributions shall be deposited by the administrator in
 19 the Retiree Health Insurance Subsidy Trust Fund.

20 Section 4. Subsections (1), (2), (3), (4), and (5) of
 21 section 121.071, Florida Statutes, are amended to read:

22 121.071 Contributions.--Contributions to the system
 23 shall be made as follows:

24 (1) The following tables state the required retirement
 25 contribution rates for members of the Regular Class, Special
 26 Risk Class, or Special Risk Administrative Support Class and
 27 their employers in terms of a percentage of the member's gross
 28 compensation. A change in a contribution rate is effective
 29 with the first salary paid on or after the beginning date of
 30 the change. Contributions shall be made or deducted as may be
 31 appropriate for each pay period and are in addition to the

1 contributions required for social security and the Retiree
 2 Health Insurance Subsidy Trust Fund.

3 (a)1. Retirement contributions for regular members are
 4 as follows:

5

6	Dates of Contribution		
7	Rate Changes	Members	Employers
8	Effective July 1, 2001, 9 <u>through June 30, 2002</u>	0%	9.91%

10 2. Effective July 1, 2002, the retirement
 11 contributions for regular members shall be specified in s.
 12 121.71.

13

14 (b)1. Retirement contributions for special risk
 15 members are as follows:

16

17	Dates of Contribution		
18	Rate Changes	Members	Employers
19	Effective July 1, 20 2001, <u>through June 30, 2002</u>	0%	22.07%

21 2. Effective July 1, 2002, retirement contributions
 22 for special risk members shall be specified in s. 121.71.

23

24 (c)1. Retirement contributions for special risk
 25 administrative support members are as follows:

26

27	Dates of Contribution		
28	Rate Changes	Members	Employers
29	Effective July 1, 2001, <u>through</u> 30 <u>June 30, 2002</u>	0%	12.55%

31

1 2. Effective July 1, 2002, retirement contributions
2 for special risk administrative support members shall be
3 specified in s. 121.71.
4

5 (2)(a) Effective January 1, 1975, or October 1, 1975,
6 as applicable, each employer shall accomplish the ~~increased~~
7 contribution required by subsection (1) by a procedure in
8 which no employee's gross salary shall be reduced.

9 (b) Upon termination of employment for any reason
10 other than retirement, a member shall be entitled to a full
11 refund of the contributions he or she has made prior or
12 subsequent to participation in the noncontributory plan,
13 subject to the restrictions otherwise provided in this
14 chapter.

15 (3) The employer paying the salary of a member shall
16 contribute an amount as specified in this section or s.
17 121.71, as appropriate, which shall constitute the entire
18 employer retirement contribution with respect to such member.
19 The employer shall also withhold one-half of the entire
20 contribution of the member required for social security
21 coverage. Contributions for social security by each member
22 and each employer, in the amount required for social security
23 coverage as now or hereafter provided by the federal Social
24 Security Act, shall be in addition to contributions specified
25 in subsection (1).

26 (4) The following table states the required employer
27 contribution on behalf of each member of the Regular Class,
28 Special Risk Class, or Special Risk Administrative Support
29 Class in terms of a percentage of the member's gross
30 compensation. Such contribution constitutes the entire health
31 insurance subsidy contribution with respect to each such ~~the~~

1 member. A change in the contribution rate is effective with
 2 the first salary paid on or after the beginning date of the
 3 change. The retiree health insurance subsidy contribution rate
 4 is as follows:

6 Dates of Contribution	Contribution
7 Rate Changes	Rate
8 October 1, 1987, through December 31, 1988	0.24%
9 January 1, 1989, through December 31, 1993	0.48%
10 January 1, 1994, through December 31, 1994	0.56%
11 January 1, 1995, through June 30, 1998	0.66%
12 July 1, 1998, through June 30, 2001	0.94%
13 Effective July 1, 2001	1.11%

14
 15 Such contributions shall be deposited by the administrator in
 16 the Retiree Health Insurance Subsidy Trust Fund.

17 (5) Contributions made in accordance with subsections
 18 (1), (2), (3), and (4), and s. 121.71 shall be paid by the
 19 employer into the system trust funds in accordance with rules
 20 adopted by the administrator pursuant to chapter 120. ~~Such~~
 21 ~~contributions are due and payable no later than the 25th day~~
 22 ~~of the month immediately following the month during which the~~
 23 ~~payroll period ended. The department may, by rule, establish a~~
 24 ~~different due date, which shall supersede the date specified~~
 25 ~~herein; however, such due date may not be established earlier~~
 26 ~~than the 20th day of the month immediately following the month~~
 27 ~~during which the payroll period ended. Effective January 1,~~
 28 ~~1984, contributions made in accordance with subsection (3)~~
 29 ~~shall be paid by the employer into the system trust fund in~~
 30 ~~accordance with rules adopted by the administrator pursuant to~~
 31 ~~chapter 120. For any payroll period ending any day of the~~

1 ~~month before the 16th day of the month, such contributions are~~
2 ~~due and payable no later than the 20th day of the month; and,~~
3 ~~for any payroll periods ending any day of the month after the~~
4 ~~15th day of the month, such contributions are due and payable~~
5 ~~no later than the 5th day of the next month. Contributions~~
6 ~~received in the offices of the department after the prescribed~~
7 ~~date shall be considered delinquent unless, in the opinion of~~
8 ~~the department, exceptional circumstances beyond an employer's~~
9 ~~control prevented remittance by the prescribed due date~~
10 ~~notwithstanding such employer's good faith efforts to effect~~
11 ~~delivery; and, with respect to retirement contributions due~~
12 ~~under subsections (1) and (4), each employer shall be assessed~~
13 ~~a delinquent fee of 1 percent of the contributions due for~~
14 ~~each calendar month or part thereof that the contributions are~~
15 ~~delinquent. Such a waiver of the delinquency fee by the~~
16 ~~department may be granted an employer only one time each~~
17 ~~fiscal year. Delinquent social security contributions shall be~~
18 ~~assessed a delinquent fee as authorized by s. 650.05(4). The~~
19 ~~delinquent fee assessable for an employer's first delinquency~~
20 ~~after July 1, 1984, shall be as specified in s. 650.05(4),~~
21 ~~and, beginning with the second delinquency in any fiscal year~~
22 ~~by the employer subsequent to July 1, 1984, all subsequent~~
23 ~~delinquency fees shall be assessed against the employer at~~
24 ~~twice the applicable percentage rate specified in s.~~
25 ~~650.05(4).~~

26 Section 5. Effective July 1, 2002, paragraph (i) of
27 subsection (13) of section 121.091, Florida Statutes, is
28 amended to read:

29 121.091 Benefits payable under the system.--Benefits
30 may not be paid under this section unless the member has
31 terminated employment as provided in s. 121.021(39)(a) or

1 begun participation in the Deferred Retirement Option Program
2 as provided in subsection (13), and a proper application has
3 been filed in the manner prescribed by the department. The
4 department may cancel an application for retirement benefits
5 when the member or beneficiary fails to timely provide the
6 information and documents required by this chapter and the
7 department's rules. The department shall adopt rules
8 establishing procedures for application for retirement
9 benefits and for the cancellation of such application when the
10 required information or documents are not received.

11 (13) DEFERRED RETIREMENT OPTION PROGRAM.--In general,
12 and subject to the provisions of this section, the Deferred
13 Retirement Option Program, hereinafter referred to as the
14 DROP, is a program under which an eligible member of the
15 Florida Retirement System may elect to participate, deferring
16 receipt of retirement benefits while continuing employment
17 with his or her Florida Retirement System employer. The
18 deferred monthly benefits shall accrue in the System Trust
19 Fund on behalf of the participant, plus interest compounded
20 monthly, for the specified period of the DROP participation,
21 as provided in paragraph (c). Upon termination of employment,
22 the participant shall receive the total DROP benefits and
23 begin to receive the previously determined normal retirement
24 benefits. Participation in the DROP does not guarantee
25 employment for the specified period of DROP.

26 (i) Contributions.--

27 1. All employers paying the salary of a DROP
28 participant filling a regularly established position shall
29 contribute 8.0 ~~11.56~~ percent of such participant's gross
30 compensation for the period of July 1, 2002, through June 30,
31 2003, and 11.56 percent of such compensation thereafter, which

1 shall constitute the entire employer DROP contribution with
2 respect to such participant. Such contributions, payable to
3 the System Trust Fund in the same manner as required in s.
4 121.071, shall be made as appropriate for each pay period and
5 are in addition to contributions required for social security
6 and the Retiree Health Insurance Subsidy Trust Fund. Such
7 employer, social security, and health insurance subsidy
8 contributions are not included in the DROP.

9 2. The employer shall, in addition to subparagraph 1.,
10 also withhold one-half of the entire social security
11 contribution required for the participant. Contributions for
12 social security by each participant and each employer, in the
13 amount required for social security coverage as now or
14 hereafter provided by the federal Social Security Act, shall
15 be in addition to contributions specified in subparagraph 1.

16 3. All employers paying the salary of a DROP
17 participant filling a regularly established position shall
18 contribute the percent of such participant's gross
19 compensation required in s. 121.071(4), which shall constitute
20 the employer's health insurance subsidy contribution with
21 respect to such participant. Such contributions shall be
22 deposited by the administrator in the Retiree Health Insurance
23 Subsidy Trust Fund.

24 Section 6. Subsections (1), (5), and (15) of section
25 121.4501, Florida Statutes, is amended to read:

26 121.4501 Public Employee Optional Retirement
27 Program.--

28 (1) The Trustees of the State Board of Administration
29 shall establish an optional defined contribution retirement
30 program for members of the Florida Retirement System under
31 which retirement benefits will be provided for eligible

1 employees who elect to participate in the program. The
2 benefits to be provided for or on behalf of participants in
3 such optional retirement program shall be provided through
4 employee-directed investments, in accordance with s. 401(a) of
5 the Internal Revenue Code and its related regulations. The
6 employers shall contribute, as provided in this section s.
7 121.71, and s. 121.571, to the Public Employee Optional
8 Retirement Program Trust Fund toward the funding of such
9 optional benefits.

10 (5) CONTRIBUTIONS.--

11 (a) Each employer shall contribute on behalf of each
12 participant in the Public Employee Optional Retirement
13 Program, as provided in part III of this chapter ~~an amount~~
14 ~~based on a percentage of the employee's monthly compensation~~
15 ~~as set forth in s. 121.571~~. The state board, acting as plan
16 fiduciary, shall ensure that all plan assets are held in a
17 trust, pursuant to s. 401 of the Internal Revenue Code. ~~The~~
18 ~~employer shall forward all contributions under this program to~~
19 ~~the third-party administrator.~~ The fiduciary shall ensure that
20 said contributions are allocated as follows:

21 1. The portion earmarked for participant accounts
22 shall be used to purchase interests in the appropriate
23 investment vehicles for the accounts of each participant as
24 specified by the participant, or in accordance with paragraph
25 (4)(d).

26 2. The portion earmarked for administrative and
27 educational expenses shall be transferred to the board.

28 3. The portion earmarked for disability benefits shall
29 be transferred to the department.

30 (b) Employers are responsible for notifying
31 participants regarding maximum contribution levels permitted

1 under the Internal Revenue Code. If a participant contributes
2 to any other tax-deferred plan, he or she is responsible for
3 ensuring that total contributions made to the optional program
4 and to any other such plan do not exceed federally permitted
5 maximums.

6 (15) STATEMENT OF FIDUCIARY STANDARDS AND
7 RESPONSIBILITIES.--

8 (a) Investment of optional defined contribution
9 retirement plan assets shall be made for the sole interest and
10 exclusive purpose of providing benefits to plan participants
11 and beneficiaries and defraying reasonable expenses of
12 administering the plan. The program's assets are to be
13 invested, on behalf of the program participants, with the
14 care, skill, and diligence that a prudent person acting in a
15 like manner would undertake. The performance of the investment
16 duties set forth in this paragraph shall comply with the
17 fiduciary standards set forth in the Employee Retirement
18 Income Security Act of 1974 at 29 U.S.C. s. 1104(a)(1)(A)-(C).
19 In case of conflict with other provisions of law authorizing
20 investments, the investment and fiduciary standards set forth
21 in this subsection shall prevail.

22 (b) If a participant or beneficiary of the Public
23 Employee Optional Retirement Program exercises control over
24 the assets in his or her account, as determined by reference
25 to regulations of the United States Department of Labor under
26 s. 404(c) of the Employee Retirement Income Security Act of
27 1974 and all applicable laws governing the operation of the
28 program, no program fiduciary shall be liable for any loss to
29 a participant's or beneficiary's account which results from
30 such participant's or beneficiary's exercise of control.

31

1 (c) Subparagraph (8)(b)4. and paragraph (15)(b)
2 incorporate the federal law concept of participant control,
3 established by regulations of the U.S. Department of Labor
4 under section 404(c) of the Employee Retirement Income
5 Security Act of 1974 (ERISA). The purpose of this paragraph
6 is to assist employers and the State Board of Administration
7 in maintaining compliance with section 404(c), while avoiding
8 unnecessary costs and eroding participant benefits under the
9 Public Employee Optional Retirement Program. Pursuant to 29
10 C.F.R. s. 2550.404c-1(b)(2)(i)(B)(1)(viii), the State Board of
11 Administration or its designated agents shall deliver to
12 participants of the Public Employee Optional Retirement
13 Program a copy of the prospectus most recently provided to the
14 plan, or shall provide such participants an opportunity to
15 obtain this information, except that:

16 1. The requirement to deliver a prospectus shall be
17 deemed to be satisfied by delivery of a fund profile that
18 contains the information that would be included in a summary
19 prospectus as described by Rule 498 under the Securities Act
20 of 1933, 17 C.F.R. s. 230.498. When the transaction fees,
21 expense information or other information provided by a mutual
22 fund in the prospectus does not reflect terms negotiated by
23 the State Board of Administration or its designated agents,
24 the aforementioned requirement is deemed to be satisfied by
25 delivery of a separate document described by Rule 498
26 substituting accurate information; and

27 2. Delivery shall be deemed to have been effected if
28 delivery is through electronic means and the following
29 standards are satisfied:
30
31

1 a. Electronically-delivered documents are prepared and
2 provided consistent with style, format, and content
3 requirements applicable to printed documents;

4 b. Each participant is provided timely and adequate
5 notice of the documents that are to be delivered and their
6 significance thereof, and of the participant's right to obtain
7 a paper copy of such documents free of charge;

8 c.(I) Participants have adequate access to the
9 electronic documents, at locations such as their worksites or
10 public facilities, and have the ability to convert the
11 documents to paper free of charge by the State Board of
12 Administration, and the Board or its designated agents take
13 appropriate and reasonable measures to ensure that the system
14 for furnishing electronic documents results in actual receipt,
15 or

16 (II) Participants have provided consent to receive
17 information in electronic format, which consent may be
18 revoked; and

19 d. The State Board of Administration, or its
20 designated agent, actually provides paper copies of the
21 documents free of charge, upon request.

22 Section 7. Section 121.571, Florida Statutes, is
23 amended to read:

24 (Substantial rewording of section. See
25 s. 121.571, F.S., for present text.)

26 121.571 Contributions.--Contributions to the Public
27 Employee Optional Retirement Program shall be made as follows:

28 (1) NONCONTRIBUTORY PLAN.--Each employer shall
29 accomplish the contributions required by s. 121.71 by a
30 procedure in which no employee's gross salary shall be
31 reduced.

1 (2) CONTRIBUTION RATES GENERALLY.--Contributions to
2 fund the retirement and disability benefits provided under
3 this part shall be based on the uniform contribution rates
4 established by s. 121.71 and on the membership class or
5 subclass of the participant. Such contributions shall be
6 allocated as provided in ss. 121.72 and 121.73.

7 (3) CONTRIBUTIONS FOR SOCIAL SECURITY COVERAGE AND FOR
8 RETIREE HEALTH INSURANCE SUBSIDY.--Contributions required
9 under this section shall be in addition to employer and member
10 contributions required for social security and the Retiree
11 Health Insurance Subsidy Trust Fund as provided in ss.
12 112.363, 121.052, 121.055, and 121.071, as appropriate.

13 Section 8. Section 11 of chapter 2001-235, Laws of
14 Florida, is amended to read:

15 Section 11. It is the intent of the Legislature that
16 the costs attributable to the additional cost-of-living
17 increase for special risk retirees and Deferred Retirement
18 Option Program participants as provided under section 2 shall
19 be funded by recognition of excess actuarial assets, amortized
20 over 30 years with the payments assumed to remain relatively
21 stable when expressed as a percentage of payroll. For fiscal
22 year 2001-2002, the payment shall be \$9.3 million. For fiscal
23 year 2002-2003, the payment shall be ~~\$15.1~~^{\$19} million, and,
24 thereafter, payments shall increase by 5 percent per year. If
25 insufficient funds are available to fund this additional cost
26 through recognition of excess actuarial assets in fiscal year
27 2002-2003 and any year thereafter, and there remains an
28 unfunded actuarial liability attributable to the one-time
29 cost-of-living increase provided under section 2, the payroll
30 contribution rate for the Special Risk Class of the Florida
31 Retirement System shall be increased by .93 percent effective

1 July 1 of that year, unless the Legislature provides an
2 alternative funding mechanism before that date.

3 Section 9. Section 23 of chapter 2000-169, Laws of
4 Florida, is hereby repealed.

5 Section 10. The contribution rates proposed in this
6 act shall be in addition to all other changes to such
7 contribution rates which may be enacted into law to take
8 effect on July 1, 2002. The Division of Statutory Revision is
9 directed to adjust the contribution rates set forth herein
10 accordingly.

11 Section 11. The Legislature finds that a proper and
12 legitimate state purpose is served when employees, officers,
13 retirees of the state and its political subdivisions, and the
14 dependents, survivors, and beneficiaries of such employees,
15 officers, and retirees, are extended the basic protections
16 afforded by governmental retirement systems that provide fair
17 and adequate benefits and that are managed, administered, and
18 funded in an actuarially sound manner, as required by Section
19 14, Article X of the State Constitution and part VII of
20 chapter 112, Florida Statutes. Therefore, the Legislature
21 hereby determines and declares that the provisions of this act
22 fulfill an important state interest.

23 Section 12. Paragraph (h) of subsection (1),
24 subsection (3), and paragraph (c) of subsection (6) of section
25 121.055, Florida Statutes, as amended by chapter 2001-262,
26 Laws of Florida, are amended to read:

27 121.055 Senior Management Service Class.--There is
28 hereby established a separate class of membership within the
29 Florida Retirement System to be known as the "Senior
30 Management Service Class," which shall become effective
31 February 1, 1987.

1 (1)

2 (h)1. Except as provided in subparagraph 3., effective
3 January 1, 1994, participation in the Senior Management
4 Service Class shall be compulsory for the State Courts
5 Administrator and the Deputy State Courts Administrators, the
6 Clerk of the Supreme Court, the Marshal of the Supreme Court,
7 the Executive Director of the Justice Administrative
8 Commission, the Capital Collateral Regional Counsels, the
9 clerks of the district courts of appeals, the marshals of the
10 district courts of appeals, and the trial court administrator
11 and the Chief Deputy Court Administrator in each judicial
12 circuit. Effective January 1, 1994, additional positions in
13 the offices of the state attorney and public defender in each
14 judicial circuit may be designated for inclusion in the Senior
15 Management Service Class of the Florida Retirement System,
16 provided that:

17 a. Positions to be included in the class shall be
18 designated by the state attorney or public defender, as
19 appropriate. Notice of intent to designate positions for
20 inclusion in the class shall be published once a week for 2
21 consecutive weeks in a newspaper of general circulation
22 published in the county or counties affected, as provided in
23 chapter 50.

24 b. One nonelective full-time position may be
25 designated for each state attorney and public defender
26 reporting to the Department of Management Services; for
27 agencies with 200 or more regularly established positions
28 under the state attorney or public defender, additional
29 nonelective full-time positions may be designated, not to
30 exceed 0.5 percent of the regularly established positions
31 within the agency.

1 c. Each position added to the class must be a
2 managerial or policymaking position filled by an employee who
3 serves at the pleasure of the state attorney or public
4 defender without civil service protection, and who:

5 (I) Heads an organizational unit; or

6 (II) Has responsibility to effect or recommend
7 personnel, budget, expenditure, or policy decisions in his or
8 her areas of responsibility.

9 2. Participation in this class shall be compulsory,
10 except as provided in subparagraph 3., for any judicial
11 employee who holds a position designated for coverage in the
12 Senior Management Service Class, and such participation shall
13 continue until the employee terminates employment in a covered
14 position. Effective January 1, 2001, participation in this
15 class is compulsory for assistant state attorneys, assistant
16 statewide prosecutors, assistant public defenders, and
17 assistant capital collateral regional counsels. Effective
18 January 1, 2002, participation in this class is compulsory for
19 assistant attorneys general.

20 3. In lieu of participation in the Senior Management
21 Service Class, such members, excluding assistant state
22 attorneys, assistant public defenders, assistant statewide
23 prosecutors, assistant attorneys general, and assistant
24 capital collateral regional counsels, may participate in the
25 Senior Management Service Optional Annuity Program as
26 established in subsection (6).

27 (3)(a) The following table states the required
28 retirement contribution rates for members of the Senior
29 Management Service Class and their employers in terms of a
30 percentage of the member's gross compensation. A change in the
31 contribution rate is effective with the first salary paid on

1 or after the beginning date of the change. Contributions
 2 shall be made for each pay period and are in addition to the
 3 contributions required for social security and the Retiree
 4 Health Insurance Subsidy Trust Fund.

5
 6 Dates of Contribution

7 Rate Changes	Members	Employers
8 Effective July 1, 2001	0%	11.73%

9
 10 (b) The employer paying the salary of a member of the
 11 Senior Management Service Class shall contribute an amount as
 12 specified in this section which shall constitute the entire
 13 employer retirement contribution with respect to such member.
 14 The employer shall also withhold one-half of the entire
 15 contribution of the member required for social security
 16 coverage.

17 (c) The following table states the required employer
 18 contribution on behalf of each member of the Senior Management
 19 Service Class in terms of a percentage of the member's gross
 20 compensation. Such contribution constitutes the entire health
 21 insurance subsidy contribution with respect to the member. A
 22 change in the contribution rate is effective with the first
 23 salary paid on or after the beginning date of the change. The
 24 retiree health insurance subsidy contribution rate is as
 25 follows:

27 Dates of Contribution	Contribution
28 Rate Changes	Rate
29 October 1, 1987, through December 31, 1988	0.24%
30 January 1, 1989, through December 31, 1993	0.48%
31 January 1, 1994, through December 31, 1994	0.56%

1	January 1, 1995, through June 30, 1998	0.66%
2	July 1, 1998, through June 30, 2001	0.94%
3	Effective July 1, 2001	1.11%

4

5 Such contributions and accompanying payroll data are due and
6 payable no later than the 5th working day of the month
7 immediately following the month during which the payroll
8 period ended and shall be deposited by the administrator in
9 the Retiree Health Insurance Subsidy Trust Fund.

10 (6)

11 (c) Participation.--

12 1. Any eligible employee who is employed on or before
13 February 1, 1987, may elect to participate in the optional
14 annuity program in lieu of participation in the Senior
15 Management Service Class. Such election shall be made in
16 writing and filed with the department and the personnel
17 officer of the employer on or before May 1, 1987. Any
18 eligible employee who is employed on or before February 1,
19 1987, and who fails to make an election to participate in the
20 optional annuity program by May 1, 1987, shall be deemed to
21 have elected membership in the Senior Management Service
22 Class.

23 2. Any employee who becomes eligible to participate in
24 the optional annuity program by reason of initial employment
25 commencing after February 1, 1987, may, within 90 days after
26 the date of commencement of employment, elect to participate
27 in the optional annuity program. Such election shall be made
28 in writing and filed with the personnel officer of the
29 employer. Any eligible employee who does not within 90 days
30 after commencement of such employment elect to participate in
31

1 the optional annuity program shall be deemed to have elected
2 membership in the Senior Management Service Class.

3 3. A person who is appointed to a position in the
4 Senior Management Service Class and who is a member of an
5 existing retirement system or the Special Risk or Special Risk
6 Administrative Support Classes of the Florida Retirement
7 System may elect to remain in such system or class in lieu of
8 participation in the Senior Management Service Class or
9 optional annuity program. Such election shall be made in
10 writing and filed with the department and the personnel
11 officer of the employer within 90 days of such appointment.
12 Any eligible employee who fails to make an election to
13 participate in the existing system, the Special Risk Class of
14 the Florida Retirement System, the Special Risk Administrative
15 Support Class of the Florida Retirement System, or the
16 optional annuity program shall be deemed to have elected
17 membership in the Senior Management Service Class.

18 4. Except as provided in subparagraph 5., an
19 employee's election to participate in the optional annuity
20 program is irrevocable as long as such employee continues to
21 be employed in an eligible position and continues to meet the
22 eligibility requirements set forth in this paragraph.

23 5. Effective from July 1, 2002, through September 30,
24 2002, any active employee in a regularly established position
25 who has elected to participate in the Senior Management
26 Service Optional Annuity Program has one opportunity to choose
27 to move from the Senior Management Service Optional Annuity
28 Program to the Florida Retirement System defined benefit
29 program.

30 a. The election must be made in writing and must be
31 filed with the department and the personnel officer of the

1 employer before October 1, 2002, or, in the case of an active
2 employee who is on a leave of absence on July 1, 2002, within
3 90 days after the conclusion of the leave of absence. This
4 election is irrevocable.

5 b. The employee will receive service credit under the
6 defined benefit program of the Florida Retirement System equal
7 to his or her years of service under the Senior Management
8 Service Optional Annuity Program. The cost for such credit
9 shall be an amount representing the present value of that
10 employee's accumulated benefit obligation for the affected
11 period of service.

12 c. The employee must transfer the total accumulated
13 employer contributions and earnings on deposit in his or her
14 Senior Management Service Optional Annuity Program account. If
15 the transferred amount is not sufficient to pay the amount
16 due, the employee must pay a sum representing the remainder of
17 the amount due. In no case may the employee retain any
18 employer contributions or earnings thereon from the Senior
19 Management Service Optional Annuity Program account.

20 Section 13. Except as otherwise provided herein, this
21 act shall take effect June 1, 2002.
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